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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,633	03/15/2004	Shepherd L. Knapp	24313.00	8535

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EXAMINER

PRINCE, FRED G

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 05/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/799,633

Applicant(s)

KNAPP ET AL.

Examiner

Fred Prince

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 0304.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 1 recites the limitation "the magnetic mounted frame" in line 8. There is insufficient antecedent basis for this limitation in the claim.

4. Claim 2 recites the limitation "the skimmer frame" in lines 5-6. There is insufficient antecedent basis for this limitation in the claim.

Claims 3-8 are rejected as depending from a rejected base claim.

5. Claim 9 recites the limitation "the magnetic mounted frame" in line 9. There is insufficient antecedent basis for this limitation in the claim.

6. Claim 10 recites the limitation "the skimmer frame" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mattson, Jr. et al. (US Pat No 6,760,931).

Mattson, Jr. et al. disclose a pool skimmer screen, comprising a hollow, rectangular, substantially rigid support frame (21; col. 12, lines 65-67) having a front surface and a rear surface, a screen (Fig. 2) fitted within the support frame, and a plurality of magnets (26) which may be disposed on the rear surface of the frame (Fig. 4B) and a frame housing (col. 10, lines 39-41). Mattson, Jr. et al. fail to explicitly disclose a mesh screen.

In any case, it is submitted that it is well known in the art to use a mesh screen within a skimmer opening (see, for example, US Pat No 4,961,849 to Hull et al. or US Pat No 6,214,217 to Sliger, Jr.) in order to filter contaminants from water which passes thorough the opening. Accordingly, it would have been readily obvious for the skilled artisan to have modified the frame of Mattson, Jr. et al. such that a mesh screen is placed within the frame in order to filter contaminants from water which passes thorough the opening, as known in the art.

Regarding the magnetic mounted frame affording quick and easy cleaning of the skimmer screen, and whereby bees and other insects are prevented from entering the swimming pool skimmer, it is submitted that the recitation is one of intended use and fails to add structure to the device.

Per claims 2 and 6, Mattson, Jr. et al. do not explicitly disclose that ferromagnetic pads surround the pool skimmer mouth or rare earth magnets are used.

It is submitted that the use of ferromagnetic pads or rare earth magnets are a matter of design choice, absent a proper showing of new and unexpected results. Further, mere substitution of a generic magnet for a specific magnet is well within the scope of one of ordinary skill in the art and there has been no showing of unobvious or unexpected results of utilizing one known magnet over another.

Allowable Subject Matter

9. Claim 8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
10. Claims 9-10 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
11. The following is a statement of reasons for the indication of allowable subject matter: Per claims 8-10, the prior art fails to teach or fairly suggest the hollow frame having the recited positioning and operational elements further comprising a buoyant material enclosed within the hollow frame.

Conclusion


12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References are cited of interest to show the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Prince whose telephone number is (571) 272-1165. The examiner can normally be reached on Monday-Thursday, 6:30-4:00; alt. Fridays 6:30-3:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Fred Prince
Primary Examiner
Art Unit 1724

fgp
5/5/05